

FIRST REGULAR SESSION

HOUSE BILL NO. 990

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DAVIS (Sponsor), FUNDERBURK, SANDER, WOOD, ONDER,
McGHEE, NIEVES, EMERY, FAITH, STEVENSON, BRUNS, MOORE, SMITH (14),
SCHAAF AND SATER (Co-sponsors).

Read 1st time February 26, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2215L.02I

AN ACT

To repeal sections 188.029, 188.030, and 188.039, RSMo, and to enact in lieu thereof three new sections relating to abortion, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 188.029, 188.030, and 188.039, RSMo, are repealed and three new
2 sections enacted in lieu thereof, to be known as sections 188.012, 188.029, and 188.030, to read
3 as follows:

188.012. Any person who performs or induces, or attempts to perform or induce,
2 **an abortion on another, other than to save the life of the mother, is guilty of a class B**
3 **felony.**

188.029. Before a physician performs an abortion **to save the life of the mother** on a
2 woman [he] **the physician** has reason to believe is carrying an unborn child of twenty or more
3 weeks gestational age, the physician shall first determine if the unborn child is viable by using
4 and exercising that degree of care, skill, and proficiency commonly exercised by the ordinarily
5 skillful, careful, and prudent physician engaged in similar practice under the same or similar
6 conditions. In making this determination of viability, the physician shall perform or cause to be
7 performed such medical examinations and tests as are necessary to make a finding of the
8 gestational age, weight, and lung maturity of the unborn child and shall enter such findings and
9 determination of viability in the medical record of the mother.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

188.030. 1. No abortion of [a viable] **an** unborn child shall be performed **in this state** unless necessary to preserve the life or health of the woman. Before a physician may perform an abortion upon a pregnant woman [after such time as her unborn child has become viable], such physician shall first certify in writing that the abortion is necessary to preserve the life [or health] of the woman and shall further certify in writing the medical indications for such abortion and the probable health consequences.

2. Any physician who performs an abortion upon a woman carrying [a viable] **an** unborn child shall utilize the available method or technique of abortion most likely to preserve the life and health of the unborn child. In cases where the method or technique of abortion which would most likely preserve the life and health of the unborn child would present a greater risk to the life and health of the woman than another available method or technique, the physician may utilize such other method or technique. In all cases where the physician performs an abortion upon [a viable] **an** unborn child, the physician shall certify in writing the available method or techniques considered and the reasons for choosing the method or technique employed.

3. An abortion of a viable unborn child shall be performed or induced only when there is in attendance a physician other than the physician performing or inducing the abortion who shall take control of and provide immediate medical care for a child born as a result of the abortion. During the performance of the abortion, the physician performing it, and subsequent to the abortion, the physician required by this section to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life and health of the viable unborn child; provided that it does not pose an increased risk to the life or health of the woman.

[188.039. 1. For purposes of this section, "medical emergency" means a condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.

2. Except in the case of medical emergency, no person shall perform or induce an abortion unless at least twenty-four hours prior thereto a treating physician has conferred with the patient and discussed with her the indicators and contraindicators, and risk factors including any physical, psychological, or situational factors for the proposed procedure and the use of medications, including but not limited to mifepristone, in light of her medical history and medical condition. For an abortion performed or an abortion induced by a drug or drugs, such conference shall take place at least twenty-four hours prior to the writing or communication of the first prescription for such drug or drugs in connection with inducing an abortion. Only one such conference shall be required for each abortion.

18 3. The patient shall be evaluated by a treating physician during the
19 conference for indicators and contraindicators, risk factors including any
20 physical, psychological, or situational factors which would predispose the patient
21 to or increase the risk of experiencing one or more adverse physical, emotional,
22 or other health reactions to the proposed procedure or drug or drugs in either the
23 short or long term as compared with women who do not possess such risk factors.

24 4. At the end of the conference, and if the woman chooses to proceed
25 with the abortion, a treating physician shall sign and shall cause the patient to
26 sign a written statement that the woman gave her informed consent freely and
27 without coercion after the physician had discussed with her the indicators and
28 contraindicators, and risk factors, including any physical, psychological, or
29 situational factors. All such executed statements shall be maintained as part of
30 the patient's medical file, subject to the confidentiality laws and rules of this state.

31 5. The director of the department of health and senior services shall
32 disseminate a model form that physicians may use as the written statement
33 required by this section, but any lack or unavailability of such a model form shall
34 not affect the duties of the physician set forth in subsections 2 to 4 of this
35 section.]

✓